

# SYNOPSIS OF PROPOSED CHANGES TO THE HOUSE RULES OF PROCEDURE 86TH LEGISLATURE - 2019

H.R. 4 by Smithee

*Note: Many of the proposed changes require language changes to be made to several different sections of the rules. In this synopsis, a proposed change is described under the rule in which the significant portion of the changes has been made.*

## Statement of Authorization and Precedence

No change.

## Rule 1—Duties and Rights of the Speaker

The provision prohibiting the alteration of standing committees by a new speaker elected after the removal of a speaker was misplaced in the section dealing with select and conference committees when adopted; the proposed change merely places it in the section dealing with the speaker's appointment of standing committees. (Rule 1, §§ 15, 16)

## Rule 2—Employees

The positions listed in Subchapter A, Rule 2, are consistently designated as House officers in the House Journal, and the parliamentarian is expressly designated as such in Rule 1, § 9. The rule was denominated as "Employees" in 1975 after a rewrite of the rules. The proposed change reflects current nomenclature distinguishing between officers and employees. (Rule 2, Headings to Rule and Subchapter A)

Authority to appoint two parliamentarians to serve the House is granted to the Speaker. The provisions related to the requirements for written ruling on points of order are transferred from Rule 14, harmonized with the Speaker's authority under Rule 1, and clarified, including clarification of the requirement of citation to authority to include all secondary authorities relied upon by the Speaker in making a ruling. (Rule 2, § 9; conforming change in Rule 2, § 2, relating to the Journal Clerk's duties to include the written rulings in the House Journal; and conforming repeal of Rule 14, § 8)

## Rule 3—Standing Committees

*Note: Some changes have been made to the committee structure. Under the proposed rules, there will be 34 standing committees: 28 substantive committees and 6 procedural committees. This section does not discuss changes made to committee jurisdiction that reflect abolition by, or changes to the names of, agencies to reflect the action of a previous legislature. This section describes, by committee, the significant changes between the committee structure of the 85th Legislature and the proposed committee structure for the 86th Legislature.*

### Generally

Each procedural committee will have 11 members, except for the Committees on:

- (1) General Investigating, which will have 5 members (instead of 7);
- (2) Redistricting, which will have 15 members (instead of 9).

Each substantive committee will have 9 members, except for the Committees on:

- (1) Appropriations, which will have 27 members;
- (2) Energy Resources, which will have 11 members (instead of 13);
- (3) Higher Education, which will have 11 members (instead of 9);
- (4) Licensing & Administrative Procedures, which will have 11 members (instead of 9);
- (5) Natural Resources, which will have 11 members;
- (6) Pension, Investments & Financial Services, which will have 11 members;
- (7) Public Education, which will have 13 members (instead of 11);
- (8) Public Health, which will have 11 members;
- (9) State Affairs, which will have 13 members;

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- (10) Transportation, which will have 13 members; and
- (11) Ways & Means, which will have 11 members.

The requirement that substantive subcommittees with specific jurisdiction be appointed by the chairs of the Committees on Economic & Small Business Development, Higher Education, Investments & Financial Services, Natural Resources, Public Education, Transportation, and Ways & Means is removed. Committee chairs retain authority to create and appoint subcommittees as needed.

*Changes to Specific Committees*

**Business & Industry:** Jurisdiction over unemployment compensation (including coverage, benefits, taxes, and eligibility) and labor unions (including organization, control, management, and administration) is transferred from **Economic & Small Business Development**. (*Rule 3, § 3*)

**Economic & Small Business Development:** This committee is consolidated **with International Trade & Intergovernmental Affairs**, as noted below in the description for **International Relations & Economic Development**. (*See Rule 3, § 19*)

**Elections:** Jurisdiction over the duties and conduct of candidates for public office and registered lobbyists and over the Texas Ethics Commission is transferred to **State Affairs**. (*Rule 3, § 10; see Rule 3, § 31*)

**General Investigating & Ethics:** The committee is renamed to use the statutory name of **General Investigating** and its membership is set at five, as specified in Chapter 301, Government Code, which governs the duties and authority of the committee. Jurisdiction over (1) ethics of state and local officers and employees and (2) operation and transparency of executive and judicial agencies and affiliated foundations is transferred to **State Affairs**. Jurisdiction over the receipt, processing, investigation, and resolution of complaints related to appropriate workplace conduct under Rule 15, the housekeeping resolution, and policies adopted by **House Administration** is granted. Recusal procedures for members of the committee in workplace conduct cases are specified. (*Rule 3, § 13; see Rule 3, § 31; conforming changes to committee name throughout resolution*)

**Government Transparency & Operations:** This committee is abolished and its jurisdiction, except jurisdiction over scientific and technological cooperation between government and private industry, is transferred to **State Affairs**. Jurisdiction over scientific and technological cooperation between government and private industry is transferred to **International Relations & Economic Development**. (*See Rule 3, §§ 19, 31*)

**House Administration:** Jurisdiction over the House Rules, any Joint Rules, and all proposed amendments and other matters concerning the rules, procedures, and operation of the house assigned by the speaker is transferred from **Rules & Resolutions** (renamed as **Resolutions Calendars**), as noted below. Jurisdiction over the adoption of policies and procedures for appropriate workplace conduct under Rule 15 and this resolution, including policies and procedures relating to the training of members, officers, and employees is specifically granted. (*Rule 3, § 16; see Rule 3, § 30*)

**International Trade & Intergovernmental Affairs:** This committee is merged with **Economic & Small Business Development** and renamed **International Relations & Economic Development** with the jurisdiction of both committees, except (1) jurisdiction over unemployment compensation (including coverage, benefits, taxes, and eligibility) and labor unions (including organization, control, management, and administration) is transferred to **Business & Industry** and (2) scientific and technological cooperation between government and private industry is transferred from **Government Transparency & Operations**, which is abolished. (*Rule 3, § 19; see Rule 3, § 3*)

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**Investments & Financial Services:** This committee is consolidated with **Pensions** and renamed **Pensions, Investments, and Financial Services**. (*See Rule 3, § 26*)

**Judiciary & Civil Jurisprudence:** Subject-matter jurisdiction over the State Commission on Judicial Conduct and the Office of the Attorney General is removed because it is duplicated in the listing of agencies over which the committee currently has jurisdiction. (*Rule 3, § 20*)

**Land & Resource Management:** Jurisdiction over the creation, modification, and regulation of municipal utility districts is transferred from **Natural Resources**. (*Rule 3, § 22*)

**Local & Consent Calendars:** Jurisdiction over the determination of priorities for floor consideration of bills and resolutions is clarified to exclude those matters currently within the jurisdiction of **Rules & Resolutions** (renamed as **Resolutions Calendars**). (*Rule 3, § 24; see Rule 3, § 30*)

**Natural Resources:** Jurisdiction over (1) the creation of certain enumerated water districts is transferred from **Special Purpose Districts**, which is abolished, and (2) over all other water and water supply districts not otherwise assigned by the rules is granted. (*Rule 3, § 25*)

**Pensions:** This committee is merged with **Investments & Financial Services** and renamed **Pensions, Investments, and Financial Services** with the jurisdiction of both committees. (*Rule 3, § 26*)

**Rules & Resolutions:** This committee is renamed **Resolutions Calendars**. Jurisdiction is clarified to extend to matters of expression concern or commendation and resolutions not within the jurisdiction of **Local & Consent Calendars**. Jurisdiction over the House Rules, any Joint Rules, and their amendment is transferred to **House Administration** (*Rule 3, § 30; see Rule 3, 13; conforming changes to committee name throughout resolution*)

**State Affairs:** Jurisdiction over the duties and conduct of candidates for public office and registered lobbyists and over the Texas Ethics Commission is transferred from **Elections**. Jurisdiction over (1) ethics of state and local officers and employees and (2) operation and transparency of executive and judicial agencies and affiliated foundations is transferred from **General Investigating**. The jurisdiction of the former **Government Transparency & Operations**, except jurisdiction over scientific and technological cooperation between government and private industry, is transferred. (*Rule 3, § 31; see Rule 3, §§ 10, 13*)

#### **Rule 4—Organization, Powers, and Duties of Committees**

Certain provisions of the rule impose a duty on a committee to include certain information in committee documents and committee reports, but provide that an error or omission in the performance of the duties are not subject to a “sustainable question of order” to mean that the error or omission is not subject to a point of order. The terms “question of order” and “point of order” are not synonymous. The language of these provisions is clarified by consistently using the phrase “not subject to a point of order. Other uses of the phrase “sustainable question of order” or variants in other rules are likewise corrected. (*Rule 4, §§ 18(b), 32(b)(10); see also Rule 11, § 6(j); and Rule 13, §§ 5(c), 6(b)*)

#### **Rule 5—Floor Procedure**

The floor privileges rule is updated to reflect the current titles of those members of the governor’s staff entitled to admission to the house chamber. (*Rule 5, § 11*)

The House rule specifying when record votes are required is revised to reflect the requirements of the constitutional amendment adopted in 2007 requiring record votes on non-ceremonial resolutions and updated to make the language congruent with the constitutional rule. (*Rule 5, § 51*)

## **Rule 6—Order of Business and Calendars**

Long-standing house practice has been to generally prohibit postponement of a bill on a local, consent, and resolutions calendar to another legislative or calendar day. This practice was implemented in 1993 to ensure that a bill or resolution was not postponed onto the supplemental house calendar in an attempt to circumvent debate and amendment limits that apply to a measure on a local, consent, and resolutions calendar and codified in the House Rules in 2003. However, the automated systems used to produce house calendars cannot adequately accommodate this requirement. The same goal of preventing circumvention of the local and consent process can be accomplished by eliminating the 2003 and adding a provision requiring an extraordinary 2/3 vote to postpone a bill or resolution on the local, consent, and resolutions calendar to another legislative or calendar day. (*Rule 6, § 14(6); Rule 7, § 14; conforming change to Rule 7, § 15*)

Provisions to expressly address the treatment of 3d reading bills removed from a local, consent, and resolutions calendar. Currently, Rule 6, Section 24, relating to replacement of contested bills, does not distinguish between bills on 2d and 3d reading. Under Rule 6, Section 16(a)(1), bills passed to 3d reading on a previous legislative day are required to appear on the supplemental house calendar. This provision applies to any bill, without regard to the calendar on which the bill appeared and is the reason that the house must suspend all necessary rules to consider local and consent bills on 3d reading. This change corrects a long-standing conflict between Rule 6, Section 16(a)(1), and Rule 6, Section 24, and resolves a timing issue relating to legislative days and supplemental calendar requirements for bills removed from a local, consent, and resolutions calendar on 3d reading. (*Rule 6, §§ 16, 24*)

Measures removed from the local, consent, and resolutions calendar at the request of authors or sponsors because either they are waiting for a senate companion or need additional time to work on a compromise amendment are subject to the same provisions governing removal of bills contested on the floor, i.e., they must be transferred to the **Calendars** Committee upon their second return to the **Local & Consent Calendars** Committee. Prior to 1991, the **Local & Consent Calendars** Committee was not required to take action on these non-controversial removals upon return to the committee. This restores the prior practice to avoid penalizing these non-controversial removals. (*Rule 6, § 24*)

The provisions related to the number of objections needed to contest a measure on the local, consent, and resolutions calendar is increased from 5 to 10 members and a presence requirement is added as currently required for casting a vote. Ten members of the house (6.7 percent of the membership) is roughly equivalent to the two members of the senate (6.5 percent of the membership) required to remove a bill from the senate's local and uncontested calendar. (*Rule 6, § 14(3)*)

The provisions governing the consideration of a local, consent, and resolutions calendar are clarified to codify the long-standing house practice that the 10-minute debate limit for a measure on the local, consent, and resolutions calendar begins after the bill is laid out following the sponsor's 3-minute explanation that precedes the measure's layout. (*Rule 6, § 14(4)*)

## **Rule 7—Motions**

Provisions related to changes made in Rule 6 to prevent circumvention of the local and consent process by requiring an extraordinary 2/3 vote to postpone a bill or resolution on the local, consent, and resolutions calendar to another legislative or calendar day are added. (*Rule 7, § 14; conforming change to Rule 7, § 15; see Rule 6, § 14(6)*)

## **Rule 8—Bills**

## **Rule 9—Joint Resolutions**

## **Rule 10—House Resolutions and Concurrent Resolutions**

No change.

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**Rule 11—Amendments**

The provisions related to pre-filing of amendments to Sunset bills that effectively precluded any 3d reading amendments are revised to apply the pre-filing requirement only to 2d reading amendments, as is currently the case with appropriations bills. (*Rule 11, § 6(g), pages 0-0*)

The provision using the phrase “sustainable point of order” is clarified as described under the proposed changes to Rule 4 on the same topic. (*Rule 11, § 6(j), pages 0-0*)

**Rule 12—Printing**

No change.

**Rule 13—Interactions with the Governor and Senate**

The provisions that permit the Speaker to return a House bill with non-germane Senate amendments directly to the Senate without consideration by the House are repealed. (*See bracketed and struck-thru language following Rule 13, § 5*)

The provisions using the phrase “sustainable question of order” or “sustainable point of order” are clarified as describe under the propose changes to Rule 4 on the same topic. (*Rule 13, §§ 5(c), 6(b)*)

**Rule 14—General Provisions**

The provisions related to referral of proposed changes to the House Rules are revised to reflect referral to the Committee on **House Administration** as described in the proposed changes to Rule 3 on the same topic (*Rule 14, § 2*)

The provisions related to the requirements for written ruling on points of order are repealed as a conforming change related to their transfer and modification as described under the proposed changes to Rule 2 on the same topic. (*Rule 14, § 8*)

The provisions related to committee gifts are repealed as a conforming change related to their transfer and modification in the Housekeeping Resolution (*Rule 14, § 7*)

**Rule 15—Appropriate Workplace Conduct**

The House Sexual Harassment Working Group has issued its final report and recommendations, including a recommendation for the full House to adopt measures to demonstrate its commitment to ensuring a harassment-free workplace. A new Rule 15 contains a statement of policy by the House stating its commitment to a safe and professional environment in which each individual is treated with respect is essential for conducting the legislative business of Texas and that harassment is inconsistent with the necessary safe and professional environment; and to prevent and address harassment. The new rule expressly declares that harassment is against house policy and that members, officers, and employees are expected to promote public confidence in the integrity of the house by refraining from harassment and reporting any harassment of which they are aware. Finally, the new rule expressly provides that it does not create an independent cause of action. (*Rule 15*)